

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77437301
LAW OFFICE ASSIGNED	LAW OFFICE 116

MARK SECTION (no change)

ARGUMENT(S)

Request For Reconsideration/Office Action Response

Applicants Asset Marketing Systems (“AMS”) and Financial Benefits Alliance, Inc. (“FBA”) submit the following response to the Examiner’s Office Action issued on December 1, 2009. The Examiner has issued a final refusal for Applicants’ class 9 and 16 goods based on a “single title” rejection. Applicants respectfully, but strongly, disagrees with the Examiner’s position, and submits this response and request for the Examiner to reconsider his position. An appeal is being concurrently filed with this response.

First of all, as Applicants noted in their previous response, Applicants’ goods are not literary works. To be clear, it is Applicants’ position that the single title rejection issued by the Examiner is not relevant to training manuals or CDs. Applicants’ training manuals are part of the Applicants’ PRACTICAL RETIREMENT STRATEGIES training program that consists of a suite of goods and services in a number of classes, encompassing a wide variety of goods and services. The Examiner is aware of Applicants’ other goods and services, and the specimens therefore. All of Applicant’s goods and services that are part of the trademarked PRACTICAL RETIREMENT STRATEGIES program are branded with Applicants’ PRACTICAL RETIREMENT STRATEGIES trademark. Therefore, the Examiner is aware of at least two different works displaying the same trademark. PRACTICAL RETIREMENT STRATEGIES is not the title of a single manual, or a single CD, it is a source indicator of the goods and services offered under the trademark. As we have previously argued: this is not a product thrust into the stream of commerce naked and alone – it is part and parcel of a suite of goods and services offered under the Applicants’ trademark PRACTICAL RETIREMENT STRATEGIES. **See Exhibit A.**

Moreover, neither of the cases cited by the Examiner are relevant to training manuals or

CDs. Each case that the Examiner relies upon is related to literary or artistic works – they are not training manuals or CDs.

In re Cooper: Title of literary work, i.e., books.

In re Scholastic: Title of literary work, i.e., books.

There are simply no decisions the Examiner can rely upon to support a single title rejection of training manuals. If the Examiner is asserting that literary works of art are analogous to training manuals, he has offered no support for that assertion.

Applicants offer a suite of goods and services related to training sophisticated consumers – licensed insurance agents – about issues in their industry. See attached Declaration of Wayne Talleur, CFO of Applicant Asset Marketing Services Insurance Services (“Talleur Decl.”), at ¶ 5. Applicants’ goods are branded with Applicants’ trademark, not a mere title. There is ample proof of this in the record– the offering of a suite of goods and services under the trademark, and Applicant has also provided a listing of Applicant’s numerous trademark registrations for its training program goods and services showing the consistent use of Applicant’s various marks with a suite of training materials and services. This is what Applicant AMS does – it provides training to insurance agents regarding issues in their industry. It has been doing this for many years, as attested to by its numerous trademark registrations for its educational programs. *Id.* at ¶¶ 2-4.

Significantly, the Trademark Office provides a specifically approved listing of goods in class 16 for training manuals. It does not say “series of training manuals,” it just says “training manuals”: ***Educational publications, namely, training manuals in the field of {indicate subject matter}***. For books, the entries specifically refer to “a series of books,” as follows:

A series of books and written articles in the field of {indicate topic or field}, and, A series of books, written articles, handouts and worksheets in the field of {indicate subject matter or field}.

Similarly, the PTO allows applicants who register training services in class 41 to include distribution of related training materials. It is not logically consistent to allow for the registration for distribution of training materials without a “title of a single work” rejection if they are included with services in Class 41, but make the rejection if the applicant chooses to register the exact same materials in class 9, or 16.

The Examiner’s assertion that the Trademark Office is not bound by previous decisions in trademark cases cannot be correct with regard to this case. Although the Examiner correctly

points out that under TMEP 1207.01 (d)(vi) each case must be judged on its own merits, where, as here, each cited case has exactly the same facts, an Examiner should be under a heavy burden to provide significant reasons for deviation from numerous previous decisions.

Here, there are no separate facts or merits to make a contrary decision. Where the facts are exactly the same, and there is an extensive history of numerous Examiners making the same decisions, there is certainly no room for a sudden ad hoc refusal, especially where the refusal has been previously asserted by the Office and overcome by Applicant AMS.[1] This cannot be the way the Trademark Office practices. Applicant AMS has built its business over many years relying on the protections offered by United States trademark law to protect its significant investment and the tremendous good will it has built over the years with its educational training programs. It cannot be that “suddenly” the PTO has discovered that its training materials are not protectible based on a “title of a single work” rejection.

In each of the decisions cited by the Examiner here in support of not being bound, there were compelling facts that distinguished the prior decisions, and two of the three cites are not even relevant to the present case:

Amf, Inc. is about 3rd party registrations not being sufficient evidence – given little weight - to support an assertion of likelihood of confusion. It is not relevant case law here.

In re Int'l Taste is about disclaimers of the word “Hollywood” in other registrations. The Board acknowledges that there is inconsistency in the Office’s treatment of the term “Hollywood,” and states that no information was supplied they could rely on. The opinion does not even mention that the Office is not bound by prior decisions, and it is again, not relevant case law here. There are no inconsistent opinions or decisions from past Examiners regarding the cited registrations.

In re Sunmarks is the only relevant case cited by the Examiner, and it simply states that each case is decided on its own merits, and that the issuance of prior registrations cannot control the result of another case. That seems like a logical rule, but a thorough reading of the cases shows that in each, there were compelling differences between the cases. In this case, the court stated: “The basic flaw in [applicant's] analysis is that each application for registration of a mark for particular goods must be separately evaluated. Nothing in the statute provides a right ipso facto to register a mark for additional goods when items are added to a company's line or substituted for other goods covered by a registration. Nor do the PTO rules afford any greater rights.” The fact that this new application was for additional goods added to the company’s line is a compelling reason for rejection.

Here, the goods and services in the present application are the same as all the previous applications, and the Examiner has stated no compelling facts supporting his refusal in light

of the numerous previous registrations.

Applicants respectfully request that the Examiner withdraw the “single title” refusal and allow the application to proceed forward.

Respectfully submitted.

/Michael J. Hoisington/
Attorney for Applicants, California bar member

[1] The “title of single work” rejection has been cited before against AMS under the same circumstances as here, and overcome. See Exhibit A, submitted with the response.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)

ORIGINAL PDF FILE	<u>evi_9817216936-141823464 . 2010 Practical Retirement Strategies Declaration.pdf</u>
CONVERTED PDF FILE(S) (2 pages)	<u>\\TICRS\EXPORT10\IMAGEOUT10\774\373\77437301\xml1\RFR0002.JPG</u>
	<u>\\TICRS\EXPORT10\IMAGEOUT10\774\373\77437301\xml1\RFR0003.JPG</u>
ORIGINAL PDF FILE	<u>evi_9817216936-141823464 . ExA.pdf</u>
CONVERTED PDF FILE(S) (42 pages)	<u>\\TICRS\EXPORT10\IMAGEOUT10\774\373\77437301\xml1\RFR0004.JPG</u>
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DESCRIPTION OF EVIDENCE FILE	Exhibit A consists of printouts from the USPTO database. Declaration of Wayne Talleur.
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Michael J. Hoisington/
SIGNATORY'S NAME	Michael J. Hoisington, Esq.
SIGNATORY'S POSITION	Attorney of record, California bar member.
DATE SIGNED	04/27/2010
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Apr 27 15:27:13 EDT 2010
TEAS STAMP	USPTO/RFR-98.172.169.36-2 0100427152713313884-77437 301-460bfb3de72d78750b289 e9e37f942bee1-N/A-N/A-201 00427141823464785

PTO Form 1020 (Rev. 8/2007)
OMB No. 0651-0050 (Exp. 4/30/2009)

**Request for Reconsideration after Final Action
To the Commissioner for Trademarks:**

Application serial no. **77437301** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Request For Reconsideration/Office Action Response

Applicants Asset Marketing Systems (“AMS”) and Financial Benefits Alliance, Inc. (“FBA”) submit the following response to the Examiner’s Office Action issued on December 1, 2009. The Examiner has issued a final refusal for Applicants’ class 9 and 16 goods based on a “single title” rejection. Applicants respectfully, but strongly, disagrees with the Examiner’s position, and submits this response and request for the Examiner to reconsider his position. An appeal is being concurrently filed with this response.

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Moreover, neither of the cases cited by the Examiner are relevant to training manuals or CDs. Each case that the Examiner relies upon is related to literary or artistic works – they are not training manuals or CDs.

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A series of books and written articles in the field of {indicate topic or field}, and, A series of books, written articles, handouts and worksheets in the field of {indicate subject matter or field}.

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Here, the goods and services in the present application are the same as all the previous applications, and the Examiner has stated no compelling facts supporting his refusal in light of the numerous previous registrations.

Applicants respectfully request that the Examiner withdraw the “single title” refusal and allow the application to proceed forward.

Respectfully submitted.

/Michael J. Hoisington/
Attorney for Applicants, California bar member

[1] The “title of single work” rejection has been cited before against AMS under the same circumstances as here, and overcome. See **Exhibit A**, submitted with the response.

EVIDENCE

Evidence in the nature of Exhibit A consists of printouts from the USPTO database. Declaration of Wayne Talleur. has been attached.

Original PDF file:

evi 9817216936-141823464 . 2010 Practical Retirement Strategies Declaration.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

Original PDF file:

evi 9817216936-141823464 . ExA.pdf

Converted PDF file(s) (42 pages)

Evidence-1

Evidence-2

Evidence-3

Evidence-4

Evidence-5

Evidence-6

Evidence-7

Evidence-8

Evidence-9

Evidence-10

Evidence-11

Evidence-12

Evidence-13

Evidence-14

Evidence-15

Evidence-16

Evidence-17

Evidence-18

Evidence-19

Evidence-20

Evidence-21

Evidence-22

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Evidence-28

Evidence-29

Evidence-30

Evidence-31

Evidence-32

Evidence-33

Evidence-34

Evidence-35

Evidence-36

Evidence-37

Evidence-38

Evidence-39

Evidence-40

Evidence-41

Evidence-42

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Michael J. Hoisington/ Date: 04/27/2010

Signatory's Name: Michael J. Hoisington, Esq.

Signatory's Position: Attorney of record, California bar member.

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 77437301

Internet Transmission Date: Tue Apr 27 15:27:13 EDT 2010

TEAS Stamp: USPTO/RFR-98.172.169.36-2010042715271331

3884-77437301-460bfb3de72d78750b289e9e37

f942bee1-N/A-N/A-20100427141823464785

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Asset Marketing Systems Insurance Services, LLC and Financial Benefits Alliance, Inc. Mark: PRACTICAL RETIREMENT STRATEGIES Serial No. 77/437301 Filed: April 1, 2008	Trademark Law Office: 116
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Declaration of Wayne Talleur

I, Wayne Talleur, declare:

1. I am the Chief Financial Officer of Applicant Asset Marketing Systems Insurance Services, LLC ("AMS"), co-Applicant in the application identified above. Except as to those facts which I am informed are true, I have personal knowledge of the facts contained within this declaration, and, if called upon as a witness, I could and would testify competently thereto.
2. Headquartered in San Diego, California, AMS is one of the largest fixed and indexed annuity wholesalers and the conservative money alternative for America's 70+ million Baby Boomers and people planning for or in retirement. AMS is a field marketing organization which provides marketing support to independent insurance agents throughout the United States. To that end, AMS creates, among other things, branded educational and training programs which are designed to inform segments of the public on various economic concerns. The branded programs include detailed scripts for presenting a seminar, and outlines and other material to be distributed at the seminar. AMS then licenses these programs to select insurance professionals who meet AMS' stringent standards, and these professionals learn the program and present the seminars. These programs have proven to be highly popular and successful. AMS continually updates its branded programs and creates new branded programs. AMS incurs great expense and time to create, modify, implement, and test its branded programs and related marketing solutions.
3. AMS has created at least 22 branded training programs for which it has current U.S. federal trademark registrations.

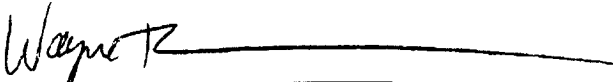
4. AMS has been creating and providing its branded educational training programs to its customers – licensed insurance professionals, since 1996. Over the years, AMS has developed significant good will in its branded educational programs, and its customers have come to recognize AMS as providing quality branded educational and training programs.

5. Each of AMS' branded programs addresses a different area of concern in our industry. AMS consistently models its programs to provide a core group of goods and services that have proven to be useful to, and popular with our customers. These include audio and video media which contain training materials, manuals and handouts containing training materials, and various training, marketing and advertising services. In each branded program, a suite of goods and services are offered under a trademark that identifies the particular program.

6. AMS relies on its U.S. federal registrations to protect the valuable good will it has developed in its programs and the time and effort that go into creating the programs. We have been involved in numerous trademark disputes, and police our trademarks carefully.

The undersigned, being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting therefrom, declares that all statements made of his own knowledge are true; and all statements made on information and belief are believed to be true.

Executed this 26th day of April, 2010, at San Diego, California.



Wayne Talleur, CFO
Asset Marketing Systems Insurance Services, LLC

EXHIBIT A

To: Asset Marketing Systems, LLC (trademarks@higgslaw.com)
Subject: TRADEMARK APPLICATION NO. 78753533 - BY WOMEN FOR WOMEN - 100269-00110
Sent: 5/30/2007 11:15:22 AM
Sent As: ECOM106@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 78/753533

APPLICANT: Asset Marketing Systems, LLC

CORRESPONDENT ADDRESS:

CHARLES F. REIDELBACH, JR.
HIGGS, FLETCHER & MACK, LLP
401 W A ST STE 2600
SAN DIEGO, CA 92101-7913

78753533

RETURN ADDRESS:
Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

MARK: BY WOMEN FOR WOMEN

CORRESPONDENT'S REFERENCE/DOCKET NO: 100269-00110

Please provide in all correspondence:

CORRESPONDENT EMAIL ADDRESS:

trademarks@higgslaw.com

1. Filing date, serial number, mark and applicant's name.
2. Date of this Office Action.
3. Examining Attorney's name and Law Office number.
4. Your telephone number and e-mail address.

OFFICE ACTION

RESPONSE TIME LIMIT: TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS OFFICE ACTION WITHIN 6 MONTHS OF THE MAILING OR E-MAILING DATE.

MAILING/E-MAILING DATE INFORMATION: If the mailing or e-mailing date of this Office action does not appear above, this information can be obtained by visiting the USPTO website at <http://tarr.uspto.gov/>, inserting the application serial number, and viewing the prosecution history for the mailing date of the most recently issued Office communication.

Serial Number 78/753533

The assigned trademark examining attorney has reviewed the statement of use and has determined the following:

Title of a Single Work Refusal - International Class 9

THIS REFUSAL APPLIES TO THE GOODS IDENTIFIED IN CLASS 9 ONLY.

Registration is **REFUSED** with respect to the goods identified in International Class 9 because the proposed mark, as used on the specimen of record, is used only as the title of a single creative work, namely, the title of a specific DVD, videotape, CD and laser disk; it does not function as a trademark to identify and distinguish applicant's goods from those of others and to indicate their source. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1051-1052 and 1127; *In re Cooper*, 254 F.2d 611, 117 USPQ 396 (C.C.P.A. 1958); see *In re Scholastic, Inc.*, 23 USPQ2d 1774, (TTAB 1992); TMEP §1202.08. Single creative works include works in which the content does not change, whether that work is in printed, recorded or electronic form.

Applicant may respond to this refusal by submitting evidence that the proposed mark is used to identify a series, rather than a single work. The name for a series of creative works indicates that each work in the series comes from the same source as the others. *Scholastic*, 23 USPQ2d at 1776. Evidence of a series includes copies of at least two different book covers or packaging for prerecorded works (not two copies of the same work) showing the mark as a source identifier for the series as well as distinguishing the mark from the individual titles of the works. *Id.*

Applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

If applicant chooses to respond to the refusal to register, then applicant must also respond to the following requirement.

Mark in Drawing Does Not Agree with Mark in Specimen

The mark depicted on the drawing disagrees with the mark on the specimen. The mark on the drawing page must be a substantially exact representation of the mark that appears on the specimen. 37 C.F.R. §2.51.

In this case, the drawing displays the mark as BY WOMEN FOR WOMEN, while the specimen shows the mark as BY WOMEN, FOR WOMEN. That is, the specimen depicts the mark with a comma after the first instance of "WOMEN" in the mark, while the drawing does not contain a comma.

Therefore, applicant must submit one of the following:

- (1) A new drawing of the mark that agrees with the mark on the specimen but does not materially alter the original mark. 37 C.F.R. §2.72(b); TMEP §§807.13, 807.13(a) and 807.14 *et seq.*; or
- (2) A substitute specimen showing the mark as it appears on the drawing, and the following

statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"The substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use."** 37 C.F.R. §2.59(b)(2); TMEP §904.09. If submitting a specimen requires an amendment to the dates of use, applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

TEAS Plus Requirement

-
NOTE: TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR
SUBMIT FEE: TEAS Plus applicants should submit the following documents using the Trademark Electronic Application System (TEAS) at <http://www.uspto.gov/teas/index.html>: (1) responses to Office actions; (2) preliminary amendments; (3) changes of correspondence address; (4) changes of owner's address; (5) appointments and revocations of attorney; (6) amendments to allege use; (7) statements of use; (8) requests for extension of time to file a statement of use, and (9) requests to delete a §1(b) basis. If any of these documents are filed on paper, they must be accompanied by a \$50 per class fee. 37 C.F.R. §§2.6(a)(1)(iv) and 2.23(a)(i). NOTE: In addition to the above, applicant must also continue to accept correspondence from the Office via e-mail throughout the examination process in order to avoid the additional fee. 37 C.F.R. §2.23(a)(2).
-

If applicant has any questions, please feel free to contact the undersigned.

/Linda Lavache/
Trademark Examining Attorney
Law Office 106
Phone: 571.272.7187
Official Fax: 571.273.9106

NOTICE OF NEW PROCEDURE FOR E-MAILED OFFICE ACTIONS: In late spring 2007, for any applicant who authorizes e-mail communication with the USPTO, the USPTO will no longer directly e-mail the actual Office action to the applicant. Instead, upon issuance of an Office action, the USPTO will e-mail the applicant a notice with a link/web address to access the Office action using Trademark Document Retrieval (TDR), which is located on the USPTO website at <http://portal.uspto.gov/external/portal/tow>. The Office action will not be attached to the e-mail notice. Upon receipt of the notice, the applicant can then view and print the actual Office action and any evidentiary attachments using the provided link/web address. TDR is available 24 hours a day, seven days a week, including holidays and weekends. This new process is intended to eliminate problems associated with e-mailed Office actions that contain numerous attachments.

HOW TO RESPOND TO THIS OFFICE ACTION:

- **ONLINE RESPONSE:** You may respond using the Office's Trademark Electronic Application

System (TEAS) Response to Office action form available on our website at <http://www.uspto.gov/teas/index.html>. If the Office action issued via e-mail, you must wait 72 hours after receipt of the Office action to respond via TEAS. **NOTE: Do not respond by e-mail. THE USPTO WILL NOT ACCEPT AN E-MAILED RESPONSE.**

- **REGULAR MAIL RESPONSE:** To respond by regular mail, your response should be sent to the mailing return address above, and include the serial number, law office number, and examining attorney's name. **NOTE: The filing date of the response will be the *date of receipt in the Office*, not the postmarked date.** To ensure your response is timely, use a certificate of mailing. 37 C.F.R. §2.197.

STATUS OF APPLICATION: To check the status of your application, visit the Office's Trademark Applications and Registrations Retrieval (TARR) system at <http://tarr.uspto.gov>.

VIEW APPLICATION DOCUMENTS ONLINE: Documents in the electronic file for pending applications can be viewed and downloaded online at <http://portal.uspto.gov/external/portal/tow>.

GENERAL TRADEMARK INFORMATION: For general information about trademarks, please visit the Office's website at <http://www.uspto.gov/main/trademarks.htm>

FOR INQUIRIES OR QUESTIONS ABOUT THIS OFFICE ACTION, PLEASE CONTACT THE ASSIGNED EXAMINING ATTORNEY SPECIFIED ABOVE.

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	78753533
LAW OFFICE ASSIGNED	LAW OFFICE 106
MARK SECTION (no change)	
ARGUMENT(S)	

Response to Office Action dated May 30, 2007

Title of a Single Work refusal.

The Examiner has refused registration, citing a single work refusal. The Applicant respectfully asserts that Examiner misapprehends the Applicant's specimen. The Applicant has created educational materials under the trademark BY WOMEN FOR WOMEN, which encompass a wide variety of goods and services. BY WOMEN FOR WOMEN is not the title of a CD or videotape, on the contrary it is a source indicator – a trademark, as is made clear by the numerous goods and services identified by the mark.

Applicant creates integrated marketing and training solutions for insurance agents. Applicant currently has at least 10 trademark registrations with similar goods and services. This is the first time the "single work refusal" has been cited. See, e.g., Reg. Nos. 3245308 BUSINESS BRANDER, 3051520 TAX MAX, 3174736 GUEST SPEAKER, 3036490 ENLIGHTENED EDUCATOR, 3098803 GIFT GIVER, 3225625 FOREVERCARE, 3188326 WEALTH STRUCTURES, 3272831 SMART IDEAS FOR A SLIGHTLY CRAZY WORLD, 3059419 PHYSICIAN RX, and 3272841 PRACTICAL SOLUTIONS FOR THE RETIREMENT YEARS. See Exhibit 1.

The reason that this refusal has not been cited in the past is that this is not the type of work contemplated by the cases cited by the Examiner. This is not a "single work." The class 9 goods are training materials that supplement Applicant's other goods and services offered under the trademark. These materials are updated on a regular basis, and again, the Examiner appears to ignore the context in which the mark is used – on multiple goods and services used for training in the financial field. This is not a CD or videotape that is thrust into the stream of commerce naked and alone – it is part and parcel of a suite or set of goods and services offered under Applicant's trademark BY WOMEN FOR WOMEN. The cases cited by the Examiner are not on point with the facts here. Those cases are about individual books, or other types of individual creative works. That is not the case here. Here the facts are that the class 009 goods are related to an overarching suite of goods and services. Applicant respectfully requests that this refusal be withdrawn.

Mark in Drawing does not Agree with Mark in Specimen.

The Examiner also refuses registration based on the mark in the drawing does not agree with the mark in the specimen. Applicant respectfully asserts that because the mark was filed as a typewritten mark, the specimen is acceptable as submitted. Trademark Rule 2.51(a) provides that "the drawing of the trademark shall be a substantially exact representation of the mark as used on or in connection with the goods." The issue is what qualifies as a "substantially exact representation of the mark?" Fortunately, we can turn to the Trademark Trial and Appeal Board for edification. In *In re R.J. Reynolds Tobacco Company*, 222 USPQ 552 (TTAB 1984), the Applicant filed for the mark BE MORE YOU. The Applicant submitted specimens as follows: BE-MORE-YOU. The Board held in that case that despite the hyphens, the mark was a substantially exact representation of the mark shown on the applicant's specimens of use. Similarly here, the Applicant submitted its drawing BY WOMEN FOR WOMEN, and its specimens of use BY WOMEN, FOR WOMEN. As pointed out in *Reynolds*, the Board acknowledged that "Office policy supports liberal allowance of typed drawings where marks are not found in special form." Here, as in *Reynolds*, Applicant's mark is not depicted in special form. Further, again as in *Reynolds*, the typed mark is a substantially exact representation of the mark shown in the specimens of record considering that the comma is of little or no significance to the commercial impression conveyed by the mark. The comma has little effect on the appearance and no effect on the sound of the mark. Considering the above, Applicant submits that its drawing and specimen are adequate as filed, and respectfully requests that the Examiner accept them without further amendment.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<u>evi 701838366-215431882 . EXHIBIT1.pdf</u>
CONVERTED PDF FILE(S) (11 pages)	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0002.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0003.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0004.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0005.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0006.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0007.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0008.JPG</u>
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	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0011.JPG</u>
	<u>\\TICRS2\EXPORT14\787\535\78753533\xml1\ROA0012.JPG</u>
DESCRIPTION OF EVIDENCE FILE	print outs of Applicant's previous registrations which are similar to the pending application and which show registration of marks in multiple classes, none of which had a single work refusal.

SIGNATURE SECTION	
RESPONSE SIGNATURE	/Michael J. Hoisington/
SIGNATORY'S NAME	Michael J. Hoisington, Esq.
SIGNATORY'S POSITION	Attorney of record.
DATE SIGNED	09/26/2007
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Wed Sep 26 22:11:53 EDT 2007
TEAS STAMP	USPTO/ROA-70.183.83.66-20 070926221153904362-787535 33-400e741a85852121ff6b2a 0d74f60362d88-N/A-N/A-200 70926215431882691

PTO Form 1557 (Rev. 9/2005)
OMB No. 0351-0050 Exp. 04/2008

Response to Office Action To the Commissioner for Trademarks:

Application serial no. **78753533** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

Response to Office Action dated May 30, 2007

Title of a Single Work refusal.

The Examiner has refused registration, citing a single work refusal. The Applicant respectfully asserts that Examiner misapprehends the Applicant's specimen. The Applicant has created educational materials under the trademark BY WOMEN FOR WOMEN, which encompass a wide variety of goods and services. BY WOMEN FOR WOMEN is not the title of a CD or videotape, on the contrary it is a source indicator – a trademark, as is made clear by the numerous goods and services identified by the mark. Applicant creates integrated marketing and training solutions for insurance agents. Applicant currently has at least 10 trademark registrations with similar goods and services. This is the first time the "single work refusal" has been cited. See, e.g., Reg. Nos. 3245308 BUSINESS BRANDER, 3051520 TAX MAX, 3174736 GUEST SPEAKER, 3036490 ENLIGHTENED EDUCATOR, 3098803 GIFT GIVER,

3225625 FOREVERCARE, 3188326 WEALTH STRUCTURES, 3272831 SMART IDEAS FOR A SLIGHTLY CRAZY WORLD, 3059419 PHYSICIAN RX, and 3272841 PRACTICAL SOLUTIONS FOR THE RETIREMENT YEARS. See Exhibit 1.

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EVIDENCE

Evidence in the nature of print outs of Applicant's previous registrations which are similar to the pending application and which show registration of marks in multiple classes, none of which had a single work refusal, has been attached.

Original PDF file:

evi_701838366-215431882 . EXHIBIT1.pdf

Converted PDF file(s) (11 pages)

Evidence-1

Evidence-2

Evidence-3
Evidence-4
Evidence-5
Evidence-6
Evidence-7
Evidence-8
Evidence-9
Evidence-10
Evidence-11

SIGNATURE(S)

Response Signature

Signature: /Michael J. Hoisington/ Date: 09/26/2007

Signatory's Name: Michael J. Hoisington, Esq.

Signatory's Position: Attorney of record.

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 78753533

Internet Transmission Date: Wed Sep 26 22:11:53 EDT 2007

TEAS Stamp: USPTO/ROA-70.183.83.66-20070926221153904

362-78753533-400e741a85852121ff6b2a0d74f

60362d88-N/A-N/A-20070926215431882691

EXHIBIT 1

[TAPP Status](#) [ASSIGN Status](#) [TDR](#) [TAPM Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark BUSINESS BRANDER

Goods and Services IC 009 US 021 023 026 036 038 G & S Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products; FIRST USE 20030501; FIRST USE IN COMMERCE 20030501

IC 016 US 002 005 022 023 029 037 038 050 G & S Printed training and educational materials in the fields of financial planning and financial products; FIRST USE 20040501; FIRST USE IN COMMERCE 20040501

IC 036 US 100 101 102 G & S Direct mail, email, print, radio and television advertising, and business management services in the fields of financial planning and financial products; FIRST USE 20040501; FIRST USE IN COMMERCE 20040501

IC 036 US 100 101 102 G & S Providing financial information, analysis and consultation; FIRST USE 20040501; FIRST USE IN COMMERCE 20040501

IC 041 US 100 101 107 G & S Educational services, namely, classes and seminars in the fields of financial planning and financial products; FIRST USE 20040501; FIRST USE IN COMMERCE 20040501

Mark Drawing Code (1) TYPED DRAWING

Serial Number 78246440

Filing Date May 6, 2003

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition April 6, 2004

Registration Number 3245303

Registration Date May 22, 2007

Owner (REGISTRANT) Asset Marketing Systems, Inc. CORPORATION CALIFORNIA 9716 Business Park Ave. San Diego CALIFORNIA 92131

(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD UAB CO DELAWARE 9716 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Michael J. Holsington, Esq.

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BUSINESS" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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[HOME](#) | [SITE INDEX](#) | [SEARCH](#) | [BUSINESS](#) | [HELP](#) | [PRIVACY POLICY](#)

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 [Jump](#) to record:
 Record 22 out of 45

[TAB# Status](#)
[ASSIGN Status](#)
[TMR](#)
[TTAB Status](#)
 (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark ENLIGHTENED EDUCATOR
Goods and Services IC 009 US 021 023 025 036 038 G & S. Pre-recorded audio and video tapes featuring training and educational material in the fields of financial planning and financial products. FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 016 US 002 005 022 023 025 037 038 050 G & S. Printed training and educational materials in the fields of financial planning and financial products. FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 035 US 100 101 102 G & S. Direct mail, print, radio and television advertising and business management services in the fields of financial planning and financial products. FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 035 US 100 101 102 G & S. Providing financial information, analysis and consultation. FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 041 US 100 101 107 G & S. Educational services, namely, classes and seminars in the fields of financial planning and financial products. FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78256500
Filing Date May 30 2003
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition February 10 2004
Registration Number 3036490
Registration Date December 27 2005
Owner (REGISTRANT) ASSET MARKETING SYSTEMS, LLC LTD LIAB CO DELAWARE 9715 Businesspark Avenue San Diego CALIFORNIA 92131
 (LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Charles F. Reidebach Jr. Esq.
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "EDUCATOR" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK, SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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[TDR](#)
[TEAR Status](#)
(Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark GIFT GIVER
Goods and Services IC 016 US 002 005 022 023 029 077 078 050 G & S Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
 IC 041 US 100 101 107 G & S Educational services namely classes and seminars in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
 IC 009 US 021 023 026 036 038 G & S Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational materials in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
 IC 035 US 100 101 102 G & S Direct mail, email, print, radio and television advertising and business management services in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
 IC 036 US 100 101 102 G & S Providing financial information, analysis and consultation FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78256502
Filing Date May 30, 2003
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition March 23, 2004
Registration Number 3098303
Registration Date May 30, 2006
Owner (REGISTRANT) Asset Marketing Systems, LLC LTD LIAB CO DELAWARE 9715 Business Park Avenue San Diego CALIFORNIA 92131
 (LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Charles F. Riedelbach Jr.
Type of Mark TRADEMARK SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

FOREVERCARE

Word Mark FOREVERCARE
Goods and Services IC 009 US 021 023 026 036 033 G & S: Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE 20040901 FIRST USE IN COMMERCE 20041101
IC 016 US 002 005 022 023 029 037 038 050 G & S: Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20040901 FIRST USE IN COMMERCE 20041101
IC 035 US 100 101 102 G & S: Distribution of advertising matter for others via direct mail, email, print, radio and television, and business management services in the field of financial planning and financial products FIRST USE 20040901 FIRST USE IN COMMERCE 20041101
IC 036 US 100 101 102 G & S: Providing financial information, analysis and consultation FIRST USE 20040901 FIRST USE IN COMMERCE 20041101
IC 041 US 100 101 107 G & S: Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE 20040901 FIRST USE IN COMMERCE 20041101

Standard Characters Claimed
Mark Drawing Code (4) STANDARD CHARACTER MARK
Serial Number 78406020
Filing Date September 20, 2004
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition September 20, 2005
Registration Number 3225625
Registration Date April 3, 2007
Owner (REGISTRANT) Asset Marketing Systems, LLC. Active members are: 1) Colin Fort, Administrator of the Estate of Richard M. Metcalfe II, all of which are citizens of the U.S.A., and 2) AMM, LLC, a California Limited Liability Company, whose active members are Mike Midlam, Michael Miron and Jay Akerstein, all of which are citizens of the U.S.A. LTD LIAB CO DELAWARE 9715 Businesspark Ave. San Diego CALIFORNIA 92131
(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Charles F. Reidelbach, Jr.
Type of Mark TRADEMARK, SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TESS was last updated on Wed Sep 26 04:08:33 EDT 2007

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[TARB Status](#) [ASSIGN Status](#) [TDR](#) [TTAD Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark GUEST SPEAKER
Goods and Services IC 009 US 021 023 026 035 038 G & S Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
IC 016 US 002 005 022 023 029 037 038 050 G & S Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
IC 035 US 100 101 102 G & S Direct mail, email, print, radio and television advertising and business management services in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
IC 036 US 100 101 102 G & S Providing financial information, analysis and consultation FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
IC 041 US 100 101 107 G & S Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE 20030801 FIRST USE IN COMMERCE 20030801
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78256498
Filing Date May 30 2003
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition March 23 2004
Registration Number 3174735
Registration Date November 21 2006
Owner (REGISTRANT) Asset Marketing Systems, LLC LTD LIAB CO DELAWARE 9715 Businesspark Avenue San Diego CALIFORNIA 92131
(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Michael J. Hixington
Type of Mark TRADEMARK SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

TAB Status ASSGN Status TMT TTAB Status (Use the "Back" button of the Internet Browser to return to TESS)

PRACTICAL
SOLUTIONS FOR THE
RETIREMENT YEARS

Word Mark PRACTICAL SOLUTIONS FOR THE RETIREMENT YEARS

Goods and Services IC 009 US 021 023 026 036 038 G & S: Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE 20060731 FIRST USE IN COMMERCE 20060731
IC 016 US 002 005 022 023 029 037 038 050 G & S: Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20060731 FIRST USE IN COMMERCE 20060731
IC 035 US 100 101 102 G & S: Distribution of advertising matter for others via direct mail, email, print, radio and television, and business management services in the field of financial planning and financial products FIRST USE 20060731 FIRST USE IN COMMERCE 20060731
IC 036 US 100 101 102 G & S: Providing financial information, analysis and consultation FIRST USE 20060731 FIRST USE IN COMMERCE 20060731
IC 041 US 100 101 107 G & S: Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE 20060731 FIRST USE IN COMMERCE 20060731

Standard Characters
Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78561226

Filing Date February 4, 2005

Current Filing Basis 1A

Original Filing Basis 1B

Published for
Opposition November 1, 2005

Registration Number 3272841

Registration Date July 31, 2007

Owner (REGISTRANT) Asset Marketing Systems, LLC LTD LIAB CO DELAWARE 9715 Businesspark Avenue San Diego CALIFORNIA 92131
(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131

Assignment Recorded ASSIGNMENT RECORDED

Type of Mark TRADEMARK SERVICE MARK

Register PRINCIPAL

Live/Dead Indicator LIVE

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Typed Drawing

Word Mark PHYSICIAN RX
Goods and Services IC 016 US 002 005 022 023 029 037 038 050 G & S Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 041 US 100 101 107 G & S Providing educational classes, seminars, workshops and conferences in the fields of financial planning and financial products FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78252767
Filing Date May 21 2003
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition January 6 2004
Registration Number 3059415
Registration Date February 14 2006
Owner (REGISTRANT) ASSET MARKETING SYSTEMS LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
 (LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Charles F. Redelbach Jr. Esq.
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PHYSICIAN" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK SERVICE MARK
Register PRINCIPAL
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Smart Ideas For A
Slightly Crazy
World

Word Mark SMART IDEAS FOR A SLIGHTLY CRAZY WORLD

Goods and Services IC 009 US 021 023 026 036 038 G & S: Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE: 20040601 FIRST USE IN COMMERCE: 20040601

IC 016 US 002 005 022 023 029 037 038 050 G & S: Printed training and educational materials in the fields of financial planning and financial products FIRST USE: 20040601 FIRST USE IN COMMERCE: 20040601

IC 035 US 100 101 102 G & S: Distribution of advertising matter for others via direct mail, email, print, radio and television, and business management services in the field of financial planning and financial products FIRST USE: 20040601 FIRST USE IN COMMERCE: 20040601

IC 036 US 100 101 102 G & S: Providing financial information, analysis and consultation FIRST USE: 20040601 FIRST USE IN COMMERCE: 20040601

IC 041 US 100 101 107 G & S: Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE: 20040601 FIRST USE IN COMMERCE: 20040601

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78553410

Filing Date January 25, 2005

Current Filing Basis 1A

Original Filing Basis 1B

Published for Opposition October 18, 2005

Registration Number 3272831

Registration Date July 31, 2007

Owner (REGISTRANT) Asset Marketing Systems, LLC Active members are: 1) Colin Fort, Administrator of the Estate of Richard M. Metcalfe II, all of which are citizens of the USA; and 2) AMM, LLC, a California Limited Liability Company whose active members are Mike Midlam, Michael Minich and Jay Akerstein, all of which are citizens of the USA. LTD LIAB CO DELAWARE 9715 Businesspark Avenue San Diego CALIFORNIA 92131

(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131

Assignment Recorded ASSIGNMENT RECORDED

Type of Mark TRADEMARK, SERVICE MARK

Register PRINCIPAL

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[TTAB Status](#) (Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing

Word Mark TAXMAX
Goods and Services IC 009 US 021 023 026 035 038 G & S Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 016 US 002 005 022 023 029 037 038 050 G & S Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
 IC 041 US 100 101 107 G & S Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE 20030501 FIRST USE IN COMMERCE 20030501
Mark Drawing Code (1) TYPED DRAWING
Serial Number 78252839
Filing Date May 21, 2003
Current Filing Basis 1A
Original Filing Basis 1B
Published for Opposition April 13, 2004
Registration Number 3051520
Registration Date January 21, 2006
Owner (REGISTRANT) ASSET MARKETING SYSTEMS, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
 (LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Charles F. Wendelbach Jr., Esq.
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TAX" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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WEALTH STRUCTURES

Word Mark WEALTH STRUCTURES

Goods and Services IC 009 US 021 023 026 036 038 G & S Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational material in the fields of financial planning and financial products FIRST USE 20050301 FIRST USE IN COMMERCE 20050301

IC 016 US 002 005 022 023 029 037 038 050 G & S Printed training and educational materials in the fields of financial planning and financial products FIRST USE 20050301 FIRST USE IN COMMERCE 20050301

IC 035 US 100 101 102 G & S Distribution of advertising matter for others via direct mail, email, print, radio and television, and business management services in the field of financial planning and financial products FIRST USE 20050301 FIRST USE IN COMMERCE 20050301

IC 036 US 100 101 102 G & S Providing financial information, analysis and consultation FIRST USE 20050301 FIRST USE IN COMMERCE 20050301

IC 041 US 100 101 107 G & S Educational services, namely, classes and seminars in the fields of financial planning and financial products FIRST USE 20050301 FIRST USE IN COMMERCE 20050301

Standard Characters Claimed

Mark Drawing Code (4) STANDARD CHARACTER MARK

Serial Number 78486624

Filing Date September 20, 2004

Current Filing Basis 1A

Original Filing Basis 1B

Supplemental Register Date July 20, 2006

Registration Number 3108326

Registration Date December 19, 2006

Owner (REGISTRANT) Asset Marketing Systems, LLC Active members are: 1) Colin Fort, Administrator of the Estate of Richard M. Metcalfe II, all of which are citizens of the U.S.A., and 2) AMM, LLC, a California Limited Liability Company, whose active members are Mike Medlam, Michael Minch and Jay Akerstein, all of which are citizens of the U.S.A. LTD LIAB CO DELAWARE 9715 Businesspark Ave. San Diego CALIFORNIA 92131

(LAST LISTED OWNER) ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC LTD LIAB CO DELAWARE 9715 BUSINESSPARK AVENUE SAN DIEGO CALIFORNIA 92131

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Charles F. Reidelbach Jr.

Type of Mark TRADEMARK SERVICE MARK

Register SUPPLEMENTAL

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Trademark Snap Shot Publication Stylesheet
(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	78753533	FILING DATE	11/14/2005
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	LAVACHE, LINDA M	L.O. ASSIGNED	106

PUB INFORMATION

RUN DATE	10/10/2007		
PUB DATE	07/18/2006		
STATUS	818-SU - STATEMENT OF USE ACCEPTED - APPROVED FOR REGISTRATION		
STATUS DATE	10/09/2007		
LITERAL MARK ELEMENT	BY WOMEN FOR WOMEN		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	YES	1 (a)	NO
1 (b)	YES	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	BY WOMEN FOR WOMEN
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	21-SUBSEQUENT OWNER AFTER REGISTRATION
NAME	ASSET MARKETING SYSTEMS INSURANCE SERVICES, LLC
ADDRESS	9715 BUSINESSPARK AVENUE SAN DIEGO, CA 92131
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware
COMPOSED OF	Active members are: 1)Colin Fort, Administrator of the Estate of Richard M. Metcalfe II, all of which are citizens of the USA; and 2) AMM, LLC, a California Limited Liability Company whose active members are Mike Midlam, Michael Mirich and Jay Akerstein, all of which are citizens of the USA.

GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Pre-recorded CD's, video tapes, laser disks and DVD's featuring training materials in the fields of financial planning and financial products
INTERNATIONAL CLASS	016
DESCRIPTION TEXT	Printed instructional, educational, and teaching materials in the field of financial planning and financial products
INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Training services in the field of finance

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	009	FIRST USE DATE	08/01/2005	FIRST USE IN COMMERCE DATE	08/01/2005	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	016	FIRST USE DATE	08/01/2005	FIRST USE IN COMMERCE DATE	08/01/2005	CLASS STATUS	6-ACTIVE

INTERNATIONAL CLASS	041	FIRST USE DATE	08/01/2005	FIRST USE IN COMMERCE DATE	08/01/2005	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION

NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/09/2007	CNPR	P	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	021
09/27/2007	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	020
09/26/2007	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	019
09/26/2007	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	018
08/22/2007	ASGN	I	AUTOMATIC UPDATE OF ASSIGNMENT OF OWNERSHIP	017
05/30/2007	GNRT	F	NON-FINAL ACTION E-MAILED	016
05/30/2007	CNRT	W	SU - NON-FINAL ACTION - WRITTEN	015
05/16/2007	SUPC	I	STATEMENT OF USE PROCESSING COMPLETE	014
05/16/2007	EX1G	S	EXTENSION 1 GRANTED	013
02/12/2007	IUAF	S	USE AMENDMENT FILED	012
02/12/2007	EXT1	S	EXTENSION 1 FILED	011
02/12/2007	EEXT	I	TEAS EXTENSION RECEIVED	010
02/12/2007	EISU	I	TEAS STATEMENT OF USE RECEIVED	009
10/10/2006	NOAM	O	NOTICE OF ALLOWANCE-MAILED	008
07/18/2006	PUBO	A	PUBLISHED FOR OPPOSITION	007
06/28/2006	NPUB	O	NOTICE OF PUBLICATION	006
06/05/2006	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	005
05/30/2006	ALIE	A	ASSIGNED TO LIE	004
05/19/2006	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	003
05/18/2006	DOCK	D	ASSIGNED TO EXAMINER	002
11/17/2005	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY

Charles F. Reidelbach, Jr.

CORRESPONDENCE ADDRESS

CHARLES F. REIDELBACH, JR.
HIGGS, FLETCHER & MACK, LLP
401 W A ST STE 2600
SAN DIEGO, CA 92101-7913

DOMESTIC REPRESENTATIVE

NONE

PRIOR OWNER INFORMATION

PARTY TYPE

20-OWNER AT PUBLICATION

NAME

Asset Marketing Systems, LLC

ADDRESS

9715 Businesspark Avenue
San Diego, CA 92131

ENTITY

16-LTD LIAB CO

CITIZENSHIP

Delaware

PARTY TYPE

10-ORIGINAL APPLICANT

NAME

Asset Marketing Systems, LLC

ADDRESS

9715 Businesspark Avenue
San Diego, CA 92131

ENTITY

16-LTD LIAB CO

CITIZENSHIP

Delaware

To: Asset Marketing Systems Insurance Servic ETC. (trademarks@higgslaw.com)
Subject: TRADEMARK APPLICATION NO. 77469796 - GENERATION
INNOVATIO - 100269-00151
Sent: 4/8/09 4:11:53 PM
Sent As: ECOM116@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)

UNITED STATES PATENT AND TRADEMARK OFFICE

SERIAL NO: 77/469796

MARK: GENERATION INNOVATIO

77469796

CORRESPONDENT ADDRESS:

CHARLES F. REIDELBACH, JR.
HIGGS, FLETCHER & MACK, LLP
401 W A ST STE 2600
SAN DIEGO, CA 92101-7913

RESPOND TO THIS ACTION:

<http://www.uspto.gov/teas/eTEASpageD.htm>

GENERAL TRADEMARK INFORMATION:

<http://www.uspto.gov/main/trademarks.htm>

APPLICANT: Asset Marketing Systems
Insurance Servic ETC.

**CORRESPONDENT'S REFERENCE/DOCKET
NO:**

100269-00151

CORRESPONDENT E-MAIL ADDRESS:

trademarks@higgslaw.com

OFFICE ACTION

TO AVOID ABANDONMENT, THE OFFICE MUST RECEIVE A PROPER RESPONSE TO THIS
OFFICE ACTION WITHIN 6 MONTHS OF THE ISSUE/MAILING DATE.

ISSUE/MAILING DATE: 4/8/2009

This letter responds to the applicant's Statement of Use, received February 18, 2009.

The examining attorney has reviewed the applicant's Statement of Use, and has determined the following.

Specimen of Use – International Class 009

Registration is refused as to the goods in International Class 009 because the applied-for mark, as used on the specimen of record, is used only as the title of a single creative work, namely the title of a specific CD; it does not function as a trademark to identify and distinguish the applicant's goods from those of others and to indicate the source of the applicant's goods. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1051-1052, 1127; *see Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1162-63, 64 USPQ2d 1375, 1378-79 (Fed. Cir. 2002); *In re Cooper*, 254 F.2d 611, 615-16, 117 USPQ 396, 399-400 (C.C.P.A. 1958); TMEP §§904.07(b), 1202.08. Single creative works include works in which the content does not change significantly, whether that work is in printed, recorded or electronic form. TMEP §1202.08(a).

The applicant may respond to this refusal by submitting evidence that the applied-for mark is used to identify a series, rather than a single work. The name for a series of creative works indicates that each work in the series comes from the same source as the others. *In re Scholastic, Inc.*, 23 USPQ2d 1774, 1776 (TTAB 1992); *see* TMEP §1202.08(c). Evidence of a series includes copies of at least two different book covers or packaging for recorded works (not two copies of the same work) that show the mark as a source identifier for the series as well as distinguish the mark from the individual titles of the works. *See In re Scholastic*, 23 USPQ2d at 1776-78; TMEP §1202.08(c).

The applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

Specimen of Use – International Class 016

Registration is refused as to the goods in International Class 016 because the applied-for mark, as used on the specimen of record, is used only as the title of a single creative work, namely the title of a specific printed training guide; it does not function as a trademark to identify and distinguish the applicant's goods from those of others and to indicate the source of the applicant's goods. Trademark Act Sections 1, 2 and 45, 15 U.S.C. §§1051-1052, 1127; *see Herbko Int'l, Inc. v. Kappa Books, Inc.*, 308 F.3d 1156, 1162-63, 64 USPQ2d 1375, 1378-79 (Fed. Cir. 2002); *In re Cooper*, 254 F.2d 611, 615-16, 117 USPQ 396, 399-400 (C.C.P.A. 1958); TMEP §§904.07(b), 1202.08. Single creative works include works in which the content does not change significantly, whether that work is in printed, recorded or electronic form. TMEP §1202.08(a).

The applicant may respond to this refusal by submitting evidence that the applied-for mark is used to identify a series, rather than a single work. The name for a series of creative works indicates that each work in the series comes from the same source as the others. *In re Scholastic, Inc.*, 23 USPQ2d 1774, 1776 (TTAB 1992); *see* TMEP §1202.08(c). Evidence of a series includes copies of at least two different book covers or packaging for recorded works (not two copies of the same work) that show the mark as a source identifier for the series as well as distinguish the mark from the individual titles of the works. *See In re Scholastic*, 23 USPQ2d at 1776-78; TMEP §1202.08(c).

As noted above, the applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

Specimen of Use – International Class 035

The specimen is not acceptable because it does not show the applied-for mark in use in commerce. A statement of use must include a specimen showing the applied-for mark in use in commerce for each class of services in the statement of use. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56, 2.88(b)(2); TMEP §§904.904.07(a), 1109.09(b).

The current specimen consists of an invitation sent out by the applicant, screen shots from the applicant's web site, and a document describing the applicant's seminar, and is unacceptable as evidence of actual service mark use because none of the supplied documents indicate that the applicant offers any of the services listed in International Class 035 (specifically, direct mail advertising services, the provision of direct e-mail advertising services, and the production and placement of print, radio and television advertising for others in the fields of financial planning and financial products) under the applied-for mark (the examining attorney notes that although the page welcoming the reader to the Generation Innovation Seminar System indicates that the system contains "direct mail pieces for use by licensed producers," it does not indicate that the applicant offers direct mail advertising or direct e-mail advertising services for others). Thus, it fails to show proper use of the applied-for mark in the sale or advertising of the services.

The applicant may respond to this refusal by submitting the following:

- (1) A substitute specimen showing the mark in use in commerce for the services specified in the statement of use; and
- (2) The following statement, verified with an affidavit or signed declaration under 37 C.F.R. §2.20: **"The substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use."** 37 C.F.R. §2.59(b)(2); TMEP §904.05. If submitting a specimen requires an amendment to the dates of use, the applicant must also verify the amended dates. 37 C.F.R. §2.71(c).

Examples of specimens for services are signs, photographs, brochures, website printouts or advertisements that show the mark used in the sale or advertising of the services. TMEP §§1301.04 *et seq.*

The attached evidence from the applicant's website provides an example of a screen shot which would serve as an acceptable specimen of use for direct mail advertising services.

Pending a proper response, registration is refused because the specimen does not show the applied-for mark in use in commerce for the services specified in the statement of use. 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.56, 2.88; TMEP §§904, 904.07(a), 1109.09(b).

As noted above, the applicant may not withdraw the statement of use. 37 C.F.R. §2.88(g); TMEP §1109.17.

Sample Declaration

The following is a sample declaration under 37 C.F.R. §2.20 with a supporting statement for a substitute specimen:

The undersigned being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements and the like may jeopardize the validity of the application or document or any registration resulting there from, declares that *the substitute specimen was in use in commerce prior to the expiration of the time allowed applicant for filing a statement of use*; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

Refusals Only Apply to Certain Goods / Services

The applicant should note that the refusals set out above apply only to the goods and services listed in International Classes 009, 016, and 035. If the applicant fails to respond to this Office Action, all goods and services in International Classes 009, 016, and 035 will be abandoned and the remaining services will proceed in the application process. TMEP 718.02(a).

/S. Michael Gaafar/
Trademark Examining Attorney
Law Office 116
(571) 272-8259
michael.gaafar@uspto.gov

RESPOND TO THIS ACTION: The applicant should file a response to this Office action online using the form at <http://www.uspto.gov/teas/eTEASpageD.htm>, waiting 48-72 hours if the applicant received notification of the Office action via e-mail. For *technical* assistance with the form, please e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned examining attorney. **Do not respond to this Office action by e-mail; the USPTO does not accept e-mailed responses.**

If responding by paper mail, please include the following information: the application serial number, the mark, the filing date and the name, title/position, telephone number and e-mail address of the person signing the response. Please use the following address: Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451.

STATUS CHECK: Check the status of the application at least once every six months from the initial filing date using the USPTO Trademark Applications and Registrations Retrieval (TARR) online system at <http://tarr.uspto.gov>. When conducting an online status check, print and maintain a copy of the complete TARR screen. If the status of your application has not changed for more than six months, please contact the assigned examining attorney.

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- * *MultiTouch™* marketing
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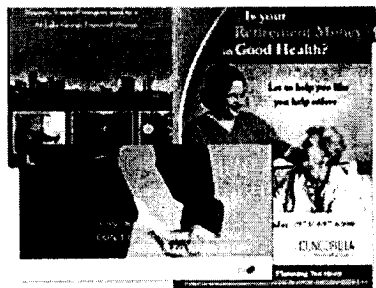
In-House Marketing & Design

AMS will provide you with custom-tailored marketing and lead generation plans to build your brand recognition as an expert in the



marketplace. We offer a wide array of marketing systems, tools and concepts. Our in-house marketing professionals will work with you to identify what strategies work best for you.


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Producer marketing materials designed by our in-house Creative Services Department.

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To: Asset Marketing Systems Insurance Servic ETC. (trademarks@higgslaw.com)
Subject: TRADEMARK APPLICATION NO. 77469796 - GENERATION
INNOVATIO - 100269-00151
Sent: 4/8/09 4:11:56 PM
Sent As: ECOM116@USPTO.GOV
Attachments:

IMPORTANT NOTICE
USPTO OFFICE ACTION HAS ISSUED ON 4/8/2009 FOR
APPLICATION SERIAL NO. 77469796

Please follow the instructions below to continue the prosecution of your application:

VIEW OFFICE ACTION: Click on this link
http://tmpportal.uspto.gov/external/portal/tow?DDA=Y&serial_number=77469796&doc_type=OOA&
(or copy and paste this URL into the address field of your browser), or visit
<http://tmpportal.uspto.gov/external/portal/tow> and enter the application serial number to access the
Office action.

PLEASE NOTE: The Office action may not be immediately available but will be viewable within 24 hours of this notification.

RESPONSE MAY BE REQUIRED: You should carefully review the Office action to determine (1) if a response is required; (2) how to respond; and (3) the applicable response time period. Your response deadline will be calculated from 4/8/2009.

Do NOT hit "Reply" to this e-mail notification, or otherwise attempt to e-mail your response, as the USPTO does NOT accept e-mailed responses. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System response form at <http://www.uspto.gov/teas/eTEASpageD.htm>.

HELP: For *technical* assistance in accessing the Office action, please e-mail TDR@uspto.gov. Please contact the assigned examining attorney with questions about the Office action.

WARNING

1. The USPTO will NOT send a separate e-mail with the Office action attached.
2. Failure to file any required response by the applicable deadline will result in the

Response to Office Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	77469796
LAW OFFICE ASSIGNED	LAW OFFICE 116
MARK SECTION (no change)	
ARGUMENT(S)	

This Office Action Response responds to the Office Action dated April 8, 2009.

SPECIMENS OF USE FOR CLASSES 009, 016

The Examiner has refused registration in IC 009 and 016, stating that the use of the mark on the specimens of record is the title of a single creative work. The Applicant respectfully disagrees. The use of the mark on the cover of the CD and manual is not as a title, but as a trademark that identifies the source of the educational and marketing materials provided by Applicant. In addition, there are other specimens of record that establish use of the trademark independently. GENERATION INNOVATION is not the "mere" title of a CD or book- it identifies an educational and marketing program and related materials and services created and distributed by the Applicant.

Applicant has a long history with the Patent and Trademark Office, and is the Registrant of many trademarks for its programs for similar goods and services. See, e.g.:

78608762 3406670 CU ADVISOR	TARR LIVE
5 78952840 3367222 LEADDYNAMICS	TARR LIVE
6 78938384 3370855 SMART IDEAS	TARR LIVE
7 78853543 3266818 TAX REDUCTION ESTIMATOR	TARR LIVE
8 78820131 3358244 YOUR FINANCIAL SOLUTIONS COMPANY	TARR LIVE
10 78753533 3357483 BY WOMEN FOR WOMEN	TARR LIVE
12 78561226 3272841 PRACTICAL SOLUTIONS FOR THE RETIREMENT YEARS	TARR LIVE
13 78553410 3272831 SMART IDEAS FOR A SLIGHTLY CRAZY WORLD	TARR LIVE
16 78486630 3330699 THE ABCS FOR MARKETING LTC	TARR LIVE
17 78486624 3188326 WEALTH STRUCTURES	TARR LIVE
18 78486620 3225625 FOREVERCARE	TARR LIVE
21 78316940 3000825 THE SYSTEM FOR ASSET MARKETING	TARR LIVE
22 78256502 3098803 GIFT GIVER	TARR LIVE
23 78256500 3036490 ENLIGHTENED EDUCATOR	TARR LIVE
24 78256498 3174736 GUEST SPEAKER	TARR LIVE

25 78255371 2999337 IMAGE BRANDER	TARR LIVE
27 78252839 3051520 TAXMAX	TARR LIVE
28 78252757 3059419 PHYSICIAN RX	TARR LIVE
29 78246440 3245308 BUSINESS BRANDER	TARR LIVE
40 77034417 3468573 VETERANS AND THEIR FINANCIAL FUTURE	TARR LIVE
42 77049237 3436876 PROGRAMS TO PREMIUM	TARR LIVE
45 77040820 3366434 PRACTICAL SOLUTIONS	TARR LIVE

Importantly, the case law precedent cited by the Examiner in support of the USPTO's position applies to "literary works." The phrase "literary works" applies to literature, or artistic works. The works here are not literary works, they are parts - a training manual and ancillary materials on the CD - of a branded training program provided under license to financial professionals.

SPECIMENS OF USE FOR CLASS 035

The specimens of use provided for IC 035, namely the invitations, are provided by applicant to its licensed producers as part of the GENERATION INNOVATION program under the mark. Applicant prepares these materials to the producers' order, and direct mails and emails invitations and other advertising materials directly to its licensed producers' clients. See attached declaration of Wayne Talleur at ¶¶ 3-4.

Based on the above, Applicant respectfully requests that the Examiner withdraw the specimen rejection as to IC 009, 016 and 035.

Respectfully submitted,

/Michael J. Hoisington/

Michael J. Hoisington, Esq. Attorney of record, California bar member.

EVIDENCE SECTION

EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	<u>evi_701838366-204836234 . Generation InnovationTelleurdecl.pdf</u>
CONVERTED PDF FILE(S) (2 pages)	<u>\\TICRS\EXPORT8\IMAGEOUT8\774\697\77469796\xml1\ROA0002.JPG</u>
	<u>\\TICRS\EXPORT8\IMAGEOUT8\774\697\77469796\xml1\ROA0003.JPG</u>
DESCRIPTION OF EVIDENCE FILE	Declaration of Applicant's CFO in support of registration.

SIGNATURE SECTION

RESPONSE SIGNATURE	/Michael J. Hoisington/
SIGNATORY'S NAME	Michael J. Hoisington, Esq.
SIGNATORY'S POSITION	Attorney of record, California bar member.

DATE SIGNED	09/15/2009
AUTHORIZED SIGNATORY	YES
FILING INFORMATION SECTION	
SUBMIT DATE	Tue Sep 15 21:17:16 EDT 2009
TEAS STAMP	USPTO/ROA-70.183.83.66-20 090915211716801803-774697 96-460606985213037817a9dd 75eda3fa036b1-N/A-N/A-200 90915204836234198

PTO Form 1567 (Rev. 8-2005)
OMB No. 0651-0050 (Exp. 04/2009)

Response to Office Action To the Commissioner for Trademarks:

Application serial no. **77469796** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

This Office Action Response responds to the Office Action dated April 8, 2009.

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TARR LIVE
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TARR LIVE

8	78820131	3358244	YOUR FINANCIAL SOLUTIONS COMPANY	TARR LIVE
10	78753533	3357483	BY WOMEN FOR WOMEN	TARR LIVE
12	78561226	3272841	PRACTICAL SOLUTIONS FOR THE RETIREMENT YEARS	TARR LIVE
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Respectfully submitted,

/Michael J. Hoisington/

Michael J. Hoisington, Esq. Attorney of record, California bar member.

EVIDENCE

Evidence in the nature of Declaration of Applicant's CFO in support of registration. has been attached.

Original PDF file:

evi_701838366-204836234 . Generation InnovationTelleurdecl.pdf

Converted PDF file(s) (2 pages)

Evidence-1

Evidence-2

SIGNATURE(S)

Response Signature

Signature: /Michael J. Hoisington/ Date: 09/15/2009

Signatory's Name: Michael J. Hoisington, Esq.

Signatory's Position: Attorney of record, California bar member.

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

Serial Number: 77469796

Internet Transmission Date: Tue Sep 15 21:17:16 EDT 2009

TEAS Stamp: USPTO/ROA-70.183.83.66-20090915211716801

803-77469796-460606985213037817a9dd75eda

3fa036b1-N/A-N/A-20090915204836234198

Trademark Snap Shot Publication Stylesheet
(Table presents the data on Publication Approval)

OVERVIEW

SERIAL NUMBER	77469796	FILING DATE	05/08/2008
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	TRADEMARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	GAAFAR, SAMIR MICHAEL	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	10/23/2009		
PUB DATE	08/12/2008		
STATUS	818-SU - STATEMENT OF USE ACCEPTED - APPROVED FOR REGISTRATION		
STATUS DATE	10/22/2009		
LITERAL MARK ELEMENT	GENERATION INNOVATION		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUBLIC 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	YES	1 (a)	NO
1 (b)	YES	1 (b)	NO	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	GENERATION INNOVATION
MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	20-OWNER AT PUBLICATION
NAME	Asset Marketing Systems Insurance Services, LLC
ADDRESS	9715 Businesspark Avenue San Diego, CA 92131
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

GOODS AND SERVICES

INTERNATIONAL CLASS	009
DESCRIPTION TEXT	Pre-recorded audio and video tapes, CDs and DVDs featuring training and educational materials in the fields of financial planning and financial products
INTERNATIONAL CLASS	016
DESCRIPTION TEXT	Printed training and educational materials in the fields of financial planning and financial products
INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Direct mail advertising services; providing direct e-mail advertising services, and production and placement of print, radio and television advertising for others in the fields of financial planning and financial products
INTERNATIONAL CLASS	036
DESCRIPTION TEXT	Providing financial information, analysis and consultation
INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Educational services, namely, conducting classes and seminars in the fields of financial planning and financial products

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL	009	FIRST USE DATE	04/01/2008	FIRST USE IN	04/01/2008	CLASS STATUS	6-ACTIVE
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CLASS				COMMERCE DATE			
INTERNATIONAL CLASS	016	FIRST USE DATE	04/01/2008	FIRST USE IN COMMERCE DATE	04/01/2008	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	035	FIRST USE DATE	04/01/2008	FIRST USE IN COMMERCE DATE	04/01/2008	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	036	FIRST USE DATE	04/01/2008	FIRST USE IN COMMERCE DATE	04/01/2008	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	041	FIRST USE DATE	04/01/2008	FIRST USE IN COMMERCE DATE	04/01/2008	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION

NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
10/22/2009	CNPR	P	ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED	019
09/16/2009	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	018
09/15/2009	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	017
09/15/2009	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	016
04/08/2009	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	015
04/08/2009	GNRT	F	NON-FINAL ACTION E-MAILED	014
04/08/2009	CNRT	W	SU - NON-FINAL ACTION - WRITTEN	013
03/09/2009	SUPC	I	STATEMENT OF USE PROCESSING COMPLETE	012
02/18/2009	IUAF	S	USE AMENDMENT FILED	011
03/09/2009	AITU	A	CASE ASSIGNED TO INTENT TO USE PARALEGAL	010
02/18/2009	EISU	I	TEAS STATEMENT OF USE RECEIVED	009
11/04/2008	NOAM	O	NOA MAILED - SOU REQUIRED FROM APPLICANT	008
08/12/2008	PUBO	A	PUBLISHED FOR OPPOSITION	007
07/23/2008	NPUB	O	NOTICE OF PUBLICATION	006

07/10/2008	PREV	O	LAW OFFICE PUBLICATION REVIEW COMPLETED	005
07/10/2008	ALIE	A	ASSIGNED TO LIE	004
07/10/2008	CNSA	P	APPROVED FOR PUB - PRINCIPAL REGISTER	003
07/09/2008	DOCK	D	ASSIGNED TO EXAMINER	002
05/13/2008	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Charles F. Reidelbach, Jr.
CORRESPONDENCE ADDRESS	CHARLES F. REIDELBACH, JR. HIGGS, FLETCHER & MACK, LLP 401 W A ST STE 2600 SAN DIEGO, CA 92101-7913
DOMESTIC REPRESENTATIVE	NONE

PRIOR OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Asset Marketing Systems Insurance Services, LLC
ADDRESS	9715 Businesspark Avenue San Diego, CA 92131
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

GENERATION INNOVATION